

# ROCHESTER PUBLIC SCHOOLS ADMINISTRATIVE GUIDELINES FOR SUPPORTING TRANSGENDER AND GENDER-EXPANSIVE STUDENTS

Friday, September 8, 2023

## Background

Superintendent Pekel has directed that the following guidelines for supporting transgender and gender-expansive students based largely upon guidelines developed by the Minnesota School Boards Association (MSBA) are to be implemented and enforced in Rochester Public Schools (RPS) in order to provide staff, students, and families with clear direction on what may be complex issues and situations. These administrative guidelines will remain in force until the Rochester School Board develops and approves a policy and/or procedures to support transgender and gender-expansive students. The RPS School plans to undertake and complete that task during the 2023-2024 school year through the school board's ongoing policy development process.

## Administrative Guidelines

These Administrative Guidelines ("Guidelines") set forth Rochester Public Schools' ("District") procedures for schools to address the needs and concerns of transgender and gender-expansive students to ensure safe, supportive, and healthy school environments where every child can learn. These Guidelines are intended to: 1) ensure that all students are welcomed, valued, included, and respected; 2) to help schools ensure safe learning environments free of discrimination, harassment, and bullying; and 3) to promote the educational and social integration of transgender and gender-expansive students. These Guidelines do not and cannot anticipate every situation that may occur, as every student is unique. The support for each student must be assessed and addressed individually based upon the student's specific requests and needs.

These Guidelines are supported by District Policy 102 (Equal Education Opportunity), 413 (Harassment and Violence), 515 (Bullying Prohibition Policy), 515 (Protection and Privacy of Pupil Records, 522 (Title IX Sex Nondiscrimination Policy, and Grievance Procedure and Process).

## **1. Definitions**

The definitions contained in the policy are not intended to label students, but rather to assist in understanding this policy and the legal obligations of district staff. It is recognized that students might or might not use these terms to describe themselves.

*"Gender Identity"* is a person's deeply held sense or psychological knowledge of their own gender, regardless of the sex or gender they were assigned at birth. A person's gender identity can be the same or different than the sex or gender assigned at birth.

“*Gender Expression*” refers to the manner in which a person represents or expresses that person’s gender identity to others, often through behavior, clothing, hairstyles, activities, or mannerisms.

“*Transgender/Trans*” describes people whose gender identity or expression is different from that traditionally associated with an assigned sex at birth.

“*Gender Non-Conforming*” describes people whose gender expression differs from social expectations, such as “feminine” boys, “masculine” girls, and those who are perceived as androgynous. This phrase also includes people who identify outside traditional gender categories.

“*Gender-expansive*” describes someone with a more flexible gender identity than might be associated with a typical gender binary.

## **2. Privacy**

All students have a right to privacy, including the right to keep private one’s transgender or gender expansive status at school. Transgender and gender-expansive students have the right to discuss and express their gender identity and expression openly and to decide when, how, and with whom to share private information, well as to determine what information will be shared.

To ensure the safety and well-being of the student, District employees shall not disclose a student’s gender identity, sex assigned at birth, transgender identity, or information that may reveal a student’s gender identity (e.g., birth name) to staff members, students, or parents/guardians of other students, unless such disclosure has been authorized by the student and/or their parent(s)/guardian(s). If such a disclosure is necessary, it will be documented in writing and should be discussed with the student in advance.

In some cases, transgender or gender-expansive students may feel more supported and safer if other students are aware that they are transgender or gender-expansive. In such cases, District staff should work closely with the student, parent/guardian, and other staff members on a plan to inform and educate the student’s peers and shall document the plan. In some circumstances, it may also be appropriate to engage external resources to assist with educational efforts.

## **3. Official School Records**

The school district is required to maintain a mandatory and permanent student record (“official record”) that includes a student’s legal name and gender. The school district is not required to use a student’s legal name and gender on other school records or documents.

The school district will change a student’s official record to reflect a change in legal name or gender upon receipt of documentation that such change has been made pursuant to a court order or other official government action.

In situations where school district staff or administrators are required by law to use or report a transgender or gender-expansive student's legal name or gender, such as for purposes of standardized testing, school staff and administrators shall adopt practices to avoid the inadvertent disclosure of confidential or private information relating to a student's gender identity or gender expression.

#### **4. Student Names, Pronouns, and Gender Markers**

A student has the right to request that the student be referred to by a name and pronouns that correspond to the student's gender identity by all school staff and fellow students.

Parent(s)/Guardian(s) have a right to request that the District change the student's name and/or gender marker in the school's student information system. A court-ordered name change or official gender change is not required, and the student is likewise not required to change the school's official records in order to be addressed by the name and pronouns that correspond to the student's gender identity.

#### **5. Gender-Segregated Activities**

To the extent possible, schools should reduce or eliminate the practice of segregating students by gender.

#### **6. Gender-Segregated Facilities**

Transgender and gender-expansive students shall have access to gendered facilities and school-sponsored programs that are consistent with the student's gender identity. This includes, but is not limited to, multi-stalled gendered restrooms, locker rooms, and school programs, trips, and athletic programs.

##### **a. Restroom Accessibility**

Pursuant to state law, students shall have access to the restroom that corresponds to their gender identity asserted at school:

- i. Any student who has a need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason for the student's need or desire for increased privacy, should be provided access to a single user restroom.
- ii. No student shall be required to use a single user restroom because they are transgender or gender-expansive.
- iii. The District shall work with each gender-expansive student to determine which restrooms are most comfortable for the student.
- iv. In no case shall a transgender or gender-expansive student be required to use a restroom that conflicts with the student's gender identity.

##### **b. Locker Room Accessibility**

The use of locker rooms by transgender and gender-expansive students shall be assessed on an individual basis with the goals of maximizing the student's social integration and equal opportunity to participate in physical education classes and sports and other school activities, ensuring the student's safety and comfort, and minimizing stigmatization of the student.

- i. Unless the student requests otherwise, transgender and gender-expansive students should have access to the locker room that corresponds to the student's gender identity asserted at school, like all other students.
- ii. Any student who has the need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason for the student's need or desire for increased privacy, should be provided with a reasonable alternative changing area such as the use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, a physical education instructor's office in or near the locker room, or a nearby health office restroom), or with a separate changing schedule (e.g., using the locker room that corresponding to gender identity before or after other students).
- iii. Any alternative arrangement should be provided in a manner that protects the student's ability to keep the student's transgender or gender-expansive status confidential.
- iv. The District shall work with each gender-expansive student to determine which restrooms and locker room facilities are most comfortable for the student.
- v. In no case shall a transgender or gender-expansive student be required to use a locker room that conflicts with the student's gender identity.

## **7. Physical Education and Health Education Classes and Intermural Sports**

Transgender and gender-expansive students shall be permitted to participate in physical education classes, health education classes, and intramural sports and activities in a manner consistent with their gender identity or in a manner that allows the student to feel the safest, included, and most comfortable.

Students in physical education classes may be grouped by ability, so long as a student's ability is based on objective standards of individual performance. A student's gender identity shall not be considered when assessing ability.

Physical education and health education teachers and staff will make their best efforts not to divide students based on sex assigned at birth or gender identity during any activities or classes.

## **8. School Trips**

All students shall be permitted to participate in all school trips in a manner that corresponds with their gender identity or in a manner that allows the student to feel the safest, included, and most comfortable. In planning school trips, staff is expected to assess the student's need in collaboration with the student and/or the student's parent(s)/guardian(s) and make reasonable efforts to provide an accommodation that is acceptable to the student. Accommodations will be discussed in advance of the trip on a case-by-case basis and will be documented in writing.

## **9. Dress Codes**

Transgender and gender-expansive students have the right to dress in a manner consistent with their gender identity or gender expression, including at school-sponsored functions such as dances, after school activities, and graduation. The District's rules regarding clothing will be enforced consistently, regardless of a student's gender identity or expression.

A student whose gender expression is different from expectations based on the student's sex assigned at birth will not be considered disruptive of the educational process or as an interference with the maintenance of a positive teaching/learning climate.

## **10. Interscholastic Competitive Sports Teams/Activities**

Transgender and gender-expansive students shall be permitted to participate in interscholastic athletics in a manner consistent with their gender identity and in compliance with the applicable regulations of the Minnesota State High School League (MSHSL). Transgender students must also have an equal opportunity to participate in other school sponsored activities consistent with their gender identity. Transgender students must have an equal opportunity to participate and are subject to the same performance criteria that apply to all other students.

## **11. Compliance**

District employees who refuse to abide by these Guidelines may be subject to disciplinary actions, up to and including termination, as set forth in the relevant employee discipline policy. This includes a staff member's persistent refusal to respect a student's gender identity, for example by consistently referring to the student by a name or pronoun that does not correspond with the student's gender identity.

## **12. Discrimination/Harassment/Bullying**

It is the policy of the District to maintain a safe and supporting learning and educational environment that is free from harassment, intimidation, violence, and/or bullying and free from discrimination on account of gender, gender identity, and gender expression.

Complaints alleging discrimination or harassment based on a student's actual or perceived transgender status or gender non-conformity generally are to be handled in the same manner as sex discrimination, harassment or bullying complaints. For information about the types of conduct that constitute violation of the school district's policy on harassment and violence and the school district's procedures for addressing such complaints, refer to the school district's policy on harassment and violence (Policy 413). For information about the types of conduct that constitute violation of the school district's policy on bullying and the school district's procedures for addressing such complaints, refer to the school district's policy on bullying (Policy 514).

## **13. Parent Access to Information**

The law generally gives parents the right to access all educational data on their child, if the child is under the age of 18. As a result, if a parent or guardian requests information about their child who is under the age of 18, including information about whether the child is transgender or whether their child has asked to use a name, pronouns, restrooms, or locker rooms based on the child's gender identity rather than sex assigned at birth, a staff member must provide that information to the parent/guardian if the staff member is in possession of that information at the time the request is made. Staff members may refuse to provide such information if the student is 18 years of age or older, unless the parent has been designated as the child's legal guardian or conservator.

Any staff member who provides such information to a parent/guardian should promptly inform the lead principal of the school or lead administrator of the program.